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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/728,749	12/08/2003	Kunio Harada	8215.136	9376

7590

12/07/2005

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EXAMINER

BEAULIEU, YONEL

ART UNIT

PAPER NUMBER

3661

DATE MAILED: 12/07/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/728,749

Applicant(s)

HARADA, KUNIO

Examiner

Yonel Beaulieu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 5 is/are rejected.
- 7) ☒ Claim(s) 3,4 and 6-8 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

***Response to Arguments***

Applicant's arguments with respect to claims 1 - 8 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) and the Intellectual Property and High Technology Technical Amendments Act of 2002 do not apply when the reference is a U.S. patent resulting directly or indirectly from an international application filed before November 29, 2000. Therefore, the prior art date of the reference is determined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1 – 8 are rejected under 35 U.S.C. 102(e) as being anticipated by Mikami et al. (US 6,549,840 B1).

Regarding claims 1 and 5, Mikami et al. teaches a drive system changing device actuated in an emergent operation, said device (see figs. 7 and 37) comprising: a

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vehicle speed detecting means (151; fig. 37) detecting a vehicle speed before a start of deceleration (col. 63, lines 13 – 24 at least); a vehicle deceleration detecting means (150) detecting a negative vehicle acceleration (col. 30, lines 34-35; col. 38, lines 14 – 16 at least); a steering angle detecting means (166) detecting a steering angle when a sudden steering operation is performed (col. 32, lines 42 – 46 at least); a determination means (154) determining whether or not to change a drive system from a result obtained from means of said vehicle speed detecting means, said deceleration detecting means, and said steering angle detecting means (item 154 accepts inputs from vehicle speed detecting means 151, said deceleration detecting means 150, and said steering angle detecting means 166 as illustrated in fig. 7 or 37); a driving force separating means changing a four wheel drive system to one of a front wheel drive system and a rear wheel drive system by separating a part of a driving force transmitting unit of said four wheel drive system according to a determination of said determination means (the system is controlled by two different drive powers – note summary); and a drive system returning means returning said drive system changed to one of said front wheel drive system and said rear wheel drive system after said emergent operation by said driving force separating means to said four wheel drive system (col. 37, lines 10 – 48; col. 41, line 45 – col. 42, line 19 at least).

Regarding claim 2, Mikami further teaches said determination means is controlled by an electronic controller (col. 25, lines 43 – 61 at least).

***Allowable Subject Matter***

Claims 3, 4, and 6 – 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The art of record fail to teach a vehicle drive system comprising, among other limitations, a vehicle weight detecting means which detects a difference between a prescribed vehicle weight and a vehicle weight in running and a drive system change-actuation means which actuates the drive system ***only*** when an increment of the weight ***in running*** is more than a predetermined value; a program, in such a system, executable by an electronic controller, wherein the program causes the controller to perform a computation as to whether or not an alarm range recorded in advance is reached based upon each data monitored by both a deceleration detecting means and a steering angle detecting means, actuate a driving force when a state of the vehicle front tires is judged to be in the alarm range; and actuate the force again after an emergent operation and transmit a signal to return from two wheel drive system to four wheel drive system.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Yonel Beaulieu whose telephone number is (571) 272-6955. The examiner can normally be reached on M-W 9-3; F 9-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Thomas BLACK can be reached on (571) 272-6956. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Yonel Beaulieu  
Primary Examiner  
Art Unit 3661

YONEL BEAULIEU  
PRIMARY EXAMINER